

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of

Ronald L. Smith, et al

Serial No.: 08/586,777

Filed: 12/07/1995

For: PORTABLE COMPUTER HAVING AN INTERFACE FOR DIRECT
CONNECTION TO A MOBILE TELEPHONE

Docket No.: TI-22187

Examiner: Meyers, P.

Art Unit: 2781 2181

Confirm No.: 7439

OFFICIAL

REQUEST FOR RECONSIDERATION OF DECISION ON PETITION TO
WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181(a)Assistant Commissioner for Patents
Alexandria, VA 22313-1450CERTIFICATION OF FAX TRANSMITTALI hereby certify that the above correspondence is being facsimile
transmitted to the Patents and Trademarks Office on June 11, 2003.
Elizabeth Austin

Dear Sir:

Applicants respectfully request reconsideration of the Decision on Petition to Withdraw Holding of Abandonment under 37 CFR § 1.181(a), mailed May 29, 2003, for the reasons set forth below.

REMARKS

The Office Dismissed Applicants' Petition to Withdraw Holding of Abandonment, pending further clarification and supplemental statement by the practitioner, for the following reasons:

- 1) Confusion resulting from a statement in paragraph 5 of Mr. Neerings Declaration (suggesting some Office mailing dated July 17, 2002 which was received July 26, 2002); and

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- 2) Apparent incompleteness of two computer screens for the docket record of this case – including: (a) no paper being listed with a July 2002 date; (b) the apparent entry for the BPAI decision mailed 3/8/2002 is listed as “Request for” and shows a “Response Due Date” of April 8, but omits that it was a Board decision; (c) and the abandonment appears to be listed as March 10, 2003 when in fact the abandonment had a mailing date of January 20, 2003.

Applicants respond to the above-identified issues as follows:

RESPONSE TO #1: The dates “07/17/02” and “07/26/02” are typographical errors and reflect dates having nothing whatsoever to do with the present application. In order to correct these typographical errors, Applicants submit herewith a Corrected Declaration of Ronald O. Neerings in which the above two typographical errors are replaced with the correct dates of “January 10, 2003” and “January 15, 2003”, respectively. “January 10, 2003” is the date the PTO mailed the Notice of Abandonment. “January 15, 2003” is the date Applicants received the “Notice of Abandonment”.

RESPONSE TO #2: (a) No paper is listed in the docket record of the present case with a July 2002 date because there is NO such paper. The “07/17/02” and “07/26/02” dates are typographical errors and reflect dates having nothing whatsoever to do with the present case. The correct dates are “January 10, 2003” and “January 15, 2003”, respectively;

(b) The “Request for” listed in the “Action” column is understood by Applicants’ representative to be “Request for Reconsideration of a BPAI Decision on Appeal”. The “Action Date” of “03/08/2002” on the same horizontal line represents the date the BPAI Decision on Appeal was mailed. The “Response Due Date” of “04/08/2002” on the same horizontal line (i.e., adjacent “03/08/2002”) is a date recommended to file a “Request for Reconsideration of BPAI Decision on Appeal”. On the next horizontal line down, “Appeal to federal court” is listed in the “Action” column. A “Response Due Date” of “05/08/2002” is the last date an appeal could be filed with the Federal Circuit.

(c) The second page of the docket file clearly lists “Notice of Abandonment” in the “Action” column. An “Action Date” of “01/10/2003” on the same horizontal line indicates the Notice of Abandonment was mailed by the USPTO on 01/10/2003. Applicants’ representative

understands this date to be the date of abandonment – NOT “03/10/2003”. Indeed, the “Response Due Date” of “03/10/2003” is on the same horizontal line as the term “Abandon?” in the “Action” column. The fact that there is a “?” (question mark) in “Abandon?” listed under “Action” suggests that there is some question to the relevance of the “Action” item. To Applicants representative it is a query asking if abandonment is the appropriate status of the case – if not, take some action – preferably by the date of “03/10/2003”. Moreover, the fact that the date “03/10/2003” is in the “Response Due Date” column means it is a responsive action for Applicants – not a mailing date for the PTO. Regardless of what the date “03/10/2003” actually represents, it is clear that it does not represent the date of abandonment which is correctly listed as “January 10, 2003”.

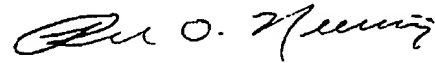
Applicants also apologize for the typographical error “May 20, 2003” in the “Request to Withdraw Notice of Abandonment” mailed by Applicants to the PTO on February 24, 2003. Applicants submit herewith a “Corrected Request to Withdraw Notice of Abandonment” listing the correct date of “May 20, 2002” as the date the Office letter was allegedly mailed.

Attorney for Applicants apologizes for any confusion caused by the typographical errors in the Request and Declaration of Ronald O. Neerings and apparent inconsistencies in the submitted copy of Applicants’ docket record. Applicants respectfully submit that this Request for Reconsideration, along with the Corrected Declaration of Ronald O. Neerings and Corrected Request to Withdraw Notice of Abandonment (submitted herewith) correct the identified typographical errors and provide further clarification and supplemental statement by the practitioner in order to confirm what was, and was not, received by the practitioner, as requested by Special Program Examiner Ballato.

In light of the above, Applicants respectfully request that the Petition be reconsidered and granted at the earliest possible date.

No additional Extension of Time or Petition fee should be required. Nevertheless, if the USPTO determines that a fee is required, please charge the fee to Deposit Account No. 20-0668.

Respectfully submitted,



Ronald O. Neerings
Reg. No. 34,227
Attorney for Applicants

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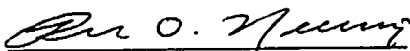
Art Unit: 2781

Confirm No.: 7439

CORRECTED DECLARATION OF RONALD O. NEERINGS

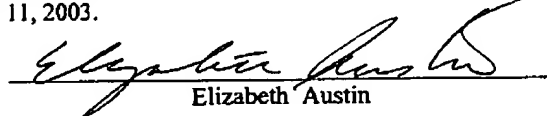
I, Ronald O. Neerings, do hereby declare:

1. I am an attorney of record in the above-identified application and the attorney at Texas Instruments assigned to prosecute said application.
2. Prior to receiving the "Notice of Abandonment" dated January 10, 2003, I had no knowledge that an Office letter dated May 20, 2002 had been rendered on said application.
3. Prior to receiving the "Notice of Abandonment" dated January 10, 2003, the prosecution file on the above-identified case contained no copy of said Office letter dated May 20, 2002.
4. A copy of a computer screen illustration of the TI legal database docket file for TI-22187 (08/568,777) is attached hereto (two pages). The docket file clearly shows that no Office letter, or any other action for that matter, having a mail date of May 20, 2002 (or any date close thereto), was entered into the TI database. Indeed, the last communication docketed from the USPTO prior to the Notice of Abandonment dated January 10, 2003, was the Decision on Appeal dated March 8, 2002.
5. The first indication that I had that an Office letter had been rendered in the above-identified application was when I received the Notice of Abandonment dated January 10, 2003. Applicants received the Notice of Abandonment dated January 10, 2003 on January 15, 2003.
6. After receiving the Notice of Abandonment dated January 10, 2003, I contacted Examiner Paul Meyers via telephone and requested that he send me a copy of the Office letter dated May 20, 2002. I received a faxed copy of said Office letter (dated May 20, 2002) on February 3, 2003. I reviewed said Office letter and prepared an Amendment - 37 C.F.R. § 1.111 in response to said Office letter (mailed February 24, 2003). In lieu of the above facts, I respectfully submit that the Amendment (mailed on February 24, 2003) is timely.
7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Ronald O. Neerings6/11/03
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Ronald L. Smith, et alSerial No.: **08/586,777**Filed: **12/07/1995**For: **PORTABLE COMPUTER HAVING AN INTERFACE FOR DIRECT
CONNECTION TO A MOBILE TELEPHONE**Docket No.: **TI-22187**Examiner: **Meyers, P.**Art Unit: **2781**Confirm No.: **7439****CORRECTED REQUEST TO WITHDRAW NOTICE OF ABANDONMENT**Assistant Commissioner for Patents
Alexandria, VA 22313-1450**CERTIFICATION OF FACSIMILE TRANSMITTAL**I hereby certify that the above correspondence is being
facsimile transmitted to the Patent and Trademark Office on
June 11, 2003.
Elizabeth Austin

Dear Sir:

Applicants respectfully request that the Notice of Abandonment mailed on January 10, 2003 be withdrawn for the reasons set forth below.

REMARKS

The USPTO mailed a Notice of Abandonment to Applicants on January 10, 2003. The reason for the Abandonment is stated in the Notice as: "Applicant's failure to timely file a proper reply to the Office letter mailed on 20 May 2002" and because "No reply has been received".

The above Notice of Abandonment was quite a surprise to Applicants since Applicants did NOT receive a copy of the above Office letter mailed on 20 May 2002.

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Applicants do not know whether the Office letter was lost in the U.S. Postal System or never mailed to Applicants by the USPTO – Applicants can only state for certain that they did not receive a copy of the Office letter prior to receiving the Notice of Abandonment. Indeed, the last communication of any kind Applicants received from the USPTO regarding this application was a copy of the Decision on Appeal, mailed on March 8, 2002.

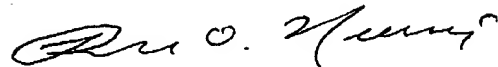
Applicants received the Notice of Abandonment on January 15, 2003. Shortly thereafter, Applicants' representative contacted Examiner Paul Meyers and requested that a copy of the Office letter rendered on May 20, 2002 be faxed to Applicants. Examiner Stephen Elmore faxed a copy of the Office letter rendered on May 20, 2002 to Applicants' representative on February 3, 2003. Applicants reviewed the Office letter and prepared the Amendment (submitted on February 24, 2003) in response to the Office letter.

While more than six months has passed since the Office letter was rendered on May 20, 2002, Applicants respectfully submit that their Amendment of February 24, 2003 is timely since Applicants had no notice of the Office letter until Applicants received the Notice of Abandonment dated January 10, 2003. Accordingly, Applicants respectfully request that the Notice of Abandonment be withdrawn and the Amendment submitted herewith be forwarded on to the Examiner for consideration on the merits.

Applicants submitted the declarations of Ronald O. Neerings and Allen B. Kroger on February 24, 2003 to support this Request to Withdraw Notice of Abandonment. Applicants further submit herewith a Corrected Declaration of Ronald O. Neerings to overcome confusion caused by the typographical errors "07/17/02" and "07/26/02" within Mr. Neerings Declaration, which correspond to dates having nothing to do with the present application.

No additional Extension of Time or Petition fee should be required.
Nevertheless, if the USPTO determines that a fee is required, please charge the fee to
Deposit Account No. 20-0668.

Respectfully submitted,



Ronald O. Neerings
Reg. No. 34,227
Attorney for Applicants

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